July XX, 2017

**TO: The U.S. Coast Guard designees to the Regulatory Reform Task Force of the U.S. Department of Homeland Security**

**RE: Docket No. USCG-2017-0480**

On behalf of the National Association of State Boating Law Administrators (NASBLA), I am providing comments on the U.S. Coast Guard’s **Evaluation of Existing Coast Guard Regulations, Guidance Documents, Interpretative Documents, and Collections of Information.** NASBLA represents the recreational boating law officials in the U.S. states and territories. Our mission is to strengthen the ability of these 56 authorities to reduce boating fatalities, injuries, and property damage, and to ensure a safe, secure, and enjoyable environment for the more than 70 million recreational boating participants. We appreciate the opportunity to provide input to this Notice.

Our comments are based on the following assumptions.

First, that the primary purpose is to provide information that will assist the Coast Guard in its work with the Department of Homeland Security’s Regulatory Reform Task Force established under the terms of Executive Order 13777. Our understanding is that this is a substantial evaluation and prioritization effort across the agency, but not one that is expected to result in specific edits to regulatory or other guidance language at this time. As such, we identify and describe select areas of significant regulatory concern and ongoing interest to the association, but do not provide a markup of regulatory language. Some of our state members and partners, however, may choose to do so in separate comments as they illustrate their concerns and suggestions.

The second assumption is that this request is not restricted to recommending provisions that should be repealed outright. Our understanding is that there is also interest in provisions associated with key functions of the agency and its partners that are ripe for major update—either through the regulatory process or through reformulation as policy documents—as they have become obsolete, fostered inefficiencies, and/or have become increasingly difficult to consistently apply.

In the recreational boating arena, there have been significant changes in the types of activities, technologies, equipment, investigative capabilities, enforcement practices, safety education, general program administration and evaluation, and other business practices over the years. Under the terms of the Federal Boat Safety Act of 1971 and over time in their respective and collective Recreational Boating Safety (RBS) programs, the states[[1]](#footnote-1) have assumed the greater share of boating safety assistance, enforcement, and education activities to carry out the national RBS program. And as such, the states’ RBS programs have had to evolve in response to these significant changes in boating. We can say, with confidence, however, that federal regulatory and policy activity have not been able to keep pace with those significant changes. That comes at a cost to both the states’ *and* the national RBS programs, the boating public, and the boating industry.

In these comments, we would like to address the following areas of special interest as they relate to 33 CFR Parts 173 and 174, and 33 CFR Part 187.

**NEED FOR COMPREHENSIVE UPDATE of 33 CFR Part 173 Vessel Numbering and Casualty and Accident Reporting (especially Subpart C, Casualty and Accident Reporting); and 33 CFR Part 174 State Numbering and Casualty Reporting Systems (especially Subpart C, Casualty Reporting System Requirements and Subpart D, State Reports)**

These regulatory requirements directly affect the states’ operations, the framework for the national accident reporting system, and ultimately the use and analysis of accident report data for policy and program interventions intended to reduce accidents, injuries and fatalities on the water. The provisions are sorely out of date and in need of substantial overhaul—and perhaps, for some aspects, reformulation into policy documents to be more effective and responsive to changing circumstances.[[2]](#footnote-2)

For purposes of this current evaluation, it is not meaningful to isolate every line that should be stricken or replaced. However, of note are requirements and timelines still reliant on actions by the vessel operator and the operator’s reporting of accident detail (e.g., § 173.55 Report of casualty or accident; § 173.57 Contents of report; § 174.121 Forwarding of casualty or accident reports); and requirements regarding accident report data elements that are subject to more frequent modification than can be reasonably accommodated by the regulatory process (§173.57 Contents of report). These and other provisions are out-of-sync with the states’ RBS programs, operations, and investigative practices as they have evolved in the interest of boating safety.

The assessment of these and other components of 33 CFR Parts 173 and 174 is not new. Over more than a decade, discussions about and research into concerns associated with the federal reporting system, regulations, policies and processes have generated recommendations for specific improvements—not only from NASBLA, the states, partnering organizations, and industry, but also the National Boating Safety Advisory Council (NBSAC), established under 46 U.S.C. Section 13110 to advise the Coast Guard on matters related to recreational boating safety. Even the two most recent versions of the National Recreational Boating Safety (RBS) Program Strategic Plan ([2012-2016](http://www.uscgboating.org/library/strategic-plan/Strategic-Plan-of-National-Recreational-Boating-Safety-Program-2012-thru-2016.pdf) and [2017-2021](http://www.uscgboating.org/library/strategic-plan/Strategic-Plan-of-National-Recreational-Boating-Safety-Program-2017-thru-2021.pdf)) have incorporated accident reporting among the objectives and courses of action to address needed reforms in regulatory and policy criteria.

In response to these various recommendations, the Coast Guard’s Office of Auxiliary and Boating Safety initiated a rulemaking project. That was five years ago. The lapse of time in the rulemaking process has only served to exacerbate the long-standing issues and requirements affecting the states and all partners in the accident reporting system.

In 2016, the membership of NASBLA and NBSAC passed separate, detailed resolutions strongly encouraging the Coast Guard to address the recommendations made over the years and to expedite completion of the rulemaking project. In lieu of listing all of the issues and chronicle of events in this letter, we have included in **APPENDIX A** three items that contain more information for your reference and are indicative of the extent of support from key stakeholders: **NASBLA Resolution 2016-1** (July 26, 2016) *In support of the advancement of the U.S. Coast Guard’s recreational boating accident reporting system regulatory project*; **NBSAC Resolution Number 2016-95-01** (April 23, 2016*) Improved Boating Accident Reporting System*;and **Recommendations of the NBSAC Accident Reporting Task Force** (2008-2009), which is referenced in both resolutions.

**NEED FOR INCORPORATION of UCOTVA provisions into 33 CFR Part 187 Vessel Identification System (especially Subpart D, Guidelines for State Vessel Titling Systems and replacement of current language in §187.301)**

The Uniform Certificate of Title for Vessels Act (UCOTVA) was drafted by the National Conference of Commissioners on Uniform State Laws (NCCUSL) with substantial input from members of NASBLA, boat manufacturers, dealers, and the Coast Guard, which continues to be supportive of it. The uniform titling act, which was approved (and recommended for enactment by all states) by NCCUSL in July 2011, provides a consistent consumer protection measure allowing, among other things, the identification of vessels that have been deemed unsafe and preventing them from being sold without disclosures. **NASBLA membership adopted UCOTVA as a model act of the association** at its annual business meeting, Sept. 12, 2011, Milwaukee, Wisc. A copy of the 64-page document is available for reference under the NASBLA numbering and titling model acts at[**http://www.nasbla.org/nasblamain/advocacy/policy/model-acts**](http://www.nasbla.org/nasblamain/advocacy/policy/model-acts)**.** **A summary of UCOTVA** is included in **APPENDIX B** to this letter. NASBLA, through one of its policy committees, has continued to work with NCCUSL in promoting and supporting its adoption by the states. Currently, three jurisdictions have adopted the act.

While there are several beneficial objectives to a state’s adoption of the act—including qualifying as a state titling law that the Coast Guard will certify and thus making available a preferred status on a mortgage or security interest for a vessel—existing Coast Guard regulations on the titling of vessels and certification of state titling systems in 33 CFR Part 187 Subpart D are outdated and do not reflect current business practices at the state level.

In 2014, NBSAC membership, in support of the Coast Guard amending Part 187 to incorporate the UCOTVA provisions, passed NBSAC **Resolution Number 2014-92-01** (Nov. 8, 2014), which is included in **APPENDIX B** to this letter**.[[3]](#footnote-3)** In doing so, the Council members also recognized that aligning Coast Guard regulations with UCOTVA would have the added effect of encouraging participation in the Vessel Identification System as it would be a requirement of any state seeking a certified titling system.

1. References to “state” or “states” in these comments mean the 50 states, the District of Columbia, and American Samoa, Guam, Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands. [↑](#footnote-ref-1)
2. The most recent updates to these provisions were as part of a [2012 Final Rule issued on Changes to Standard Numbering System, Vessel Identification System, and Boating Accident Report Database (BARD) (77 FR 18689).](https://www.federalregister.gov/documents/2012/03/28/2012-7127/changes-to-standard-numbering-system-vessel-identification-system-and-boating-accident-report) The amendments were primarily to harmonize and authorize certain terms and definitions across the three systems (in the case of accident reporting, § 173.3 and § 174.3 for certain definitions and § 173.57 for certain contents of the accident report form)**.** Extensive changes were deferred (as evidenced by differences between the Notice of Proposed Rulemaking and the Final Rule) pending a more comprehensive evaluation and development of proposals regarding the accident reporting processes and overall system and information content of the accident report form. [↑](#footnote-ref-2)
3. See <https://homeport.uscg.mil/NBSAC>, for minutes from 92nd Meeting of the National Boating Safety Advisory Council, Arlington, VA, Nov. 6-8, 2014. Relevant pages are 22-23 and 60-61. [↑](#footnote-ref-3)